

**LEGISLATIVE SERVICES AGENCY
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

301 State House
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FISCAL IMPACT STATEMENT

LS 6639

BILL NUMBER: HB 1494

DATE PREPARED: Dec 14, 2000

BILL AMENDED:

SUBJECT: Attorneys for the Indigent in Civil Cases.

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FUNDS AFFECTED: **GENERAL**
 DEDICATED
 FEDERAL

IMPACT: Local

Summary of Legislation: This bill has the following provisions:

(A) It provides that a court that accepts the application of a litigant for leave to prosecute or defend a civil action as an indigent person is not required to, but may, under exceptional circumstances, assign an attorney to defend or prosecute the action on the litigant's behalf.

(B) It authorizes the court, in deciding whether to assign an attorney to defend or prosecute on the litigant's behalf, to consider: (1) the likelihood that the litigant will prevail on the merits of the litigant's claim or defense; and (2) the litigant's ability to investigate and present the litigant's claims or defenses without an attorney, given the type and the complexity of the facts and legal issues in the action.

(C) It prohibits the court from assigning an attorney to defend or prosecute on the litigant's behalf if the court determines that: (1) the litigant failed to make a diligent effort to obtain an attorney before filing an application; or (2) the litigant is unlikely to prevail on the litigant's claim or defense.

Effective Date: Upon passage.

Explanation of State Expenditures:

Explanation of State Revenues:

Explanation of Local Expenditures: Expenditure savings due to this bill are indeterminable. Courts are appointing their public defender staff or hiring outside counsel to represent indigent litigants in civil cases. For example, some courts are reportedly using public defenders to represent indigent parties in divorce cases and certain noncriminal cases. It is likely that this bill would permit the courts to not appoint indigent counsel for a certain number of civil cases involving indigent litigants. However, courts would likely still appoint counsel for indigent litigants in cases involving the taking of liberty from the indigent litigants (such as mental competency hearings).

The 1999 Judicial Report shows that trial courts appointed pauper counsel in 87,870 cases. Of these cases, 1,993 cases, or 2.3%, were for cases other than criminal, juvenile, post conviction relief, or criminal appeals. These cases could include, but are not limited to, divorces, mental health competency hearings, probation revocations, and termination of parental rights. For CY 1999, the courts spent \$24 M for public defender staff, pauper attorney case by case, and other indigent expenses. If the courts spent 2.3% of its indigent defense budget for these other cases, then the estimated cost of legal representation for these types of cases would be \$650,000.

Explanation of Local Revenues:

State Agencies Affected:

Local Agencies Affected: Trial courts.

Information Sources: Larry Landis, Indiana Public Defender Council, Hon. Roland Chamblee, St. Joseph Superior Court, Hon. Thomas Hunt, Grant Circuit Court, 1999 Indiana Judicial Report.